



MEMORIAL AND CASE

OF

DAVID CHISHOLME.

1839.

To

HIS EXCELLENCY LIEUTENANT GENERAL

SIR JOHN COLBORNE,

KNIGHT GRAND CROSS OF THE MILITARY ORDER OF THE BATH; AND OF THE ROYAL

HANOVERIAN ORDER; GOVERNOR GENERAL OF ALL HER MAJESTY'S

PROVINCES ON THE CONTINENT OF NORTH AMERICA,

AND OF THE ISLANDS OF PRINCE EDWARD AND NEWFOUNDLAND;

AND CAPTAIN GENERAL AND GOVERNOR IN CHIEF OF LOWER CANADA, UPPER CANADA,

&c. &c. &c.

THE HUMBLE MEMORIAL OF DAVID CHISHOLME, OF THE
CITY OF MONTREAL,

SHEWETH :—

That, in the year, 1826, your Memorialist was appointed Clerk of the Peace in and for the District of Three Rivers, by the late Earl of Dalhousie, then Governor-in-Chief of this Province. That, in 1834, he was also appointed to the situation of Coroner of the same District, by my Lord Aylmer, then Governor-in-Chief; and that, from 1829, to the month of November, 1835, your Memorialist acted as Private Agent, at Three Rivers, for the Secretary of the Province, in issuing Shop and Tavern Licenses; but at which latter period he resigned his said agency, having, at the same time, been furnished by the said Secretary with testimonials of good conduct, as such Agent.

That, in the month of October, 1836, the Earl of Gosford, then Governor-in-Chief, was pleased to dismiss your Memorialist from the said offices of Clerk of the Peace and Coroner. That such dismissal was not the consequence of any misconduct alleged to have been

committed by your Memorialist, in the execution of the duties of any one of those offices, to which alone the superintending civil authority of the Governor-in-Chief extended ; but merely in his capacity of Private Agent aforesaid, and as the result of a conspiracy formed against the political principles and writings of your Memorialist, who is well known to have been always a good and loyal subject, and to have maintained the cause of good government and the laws.

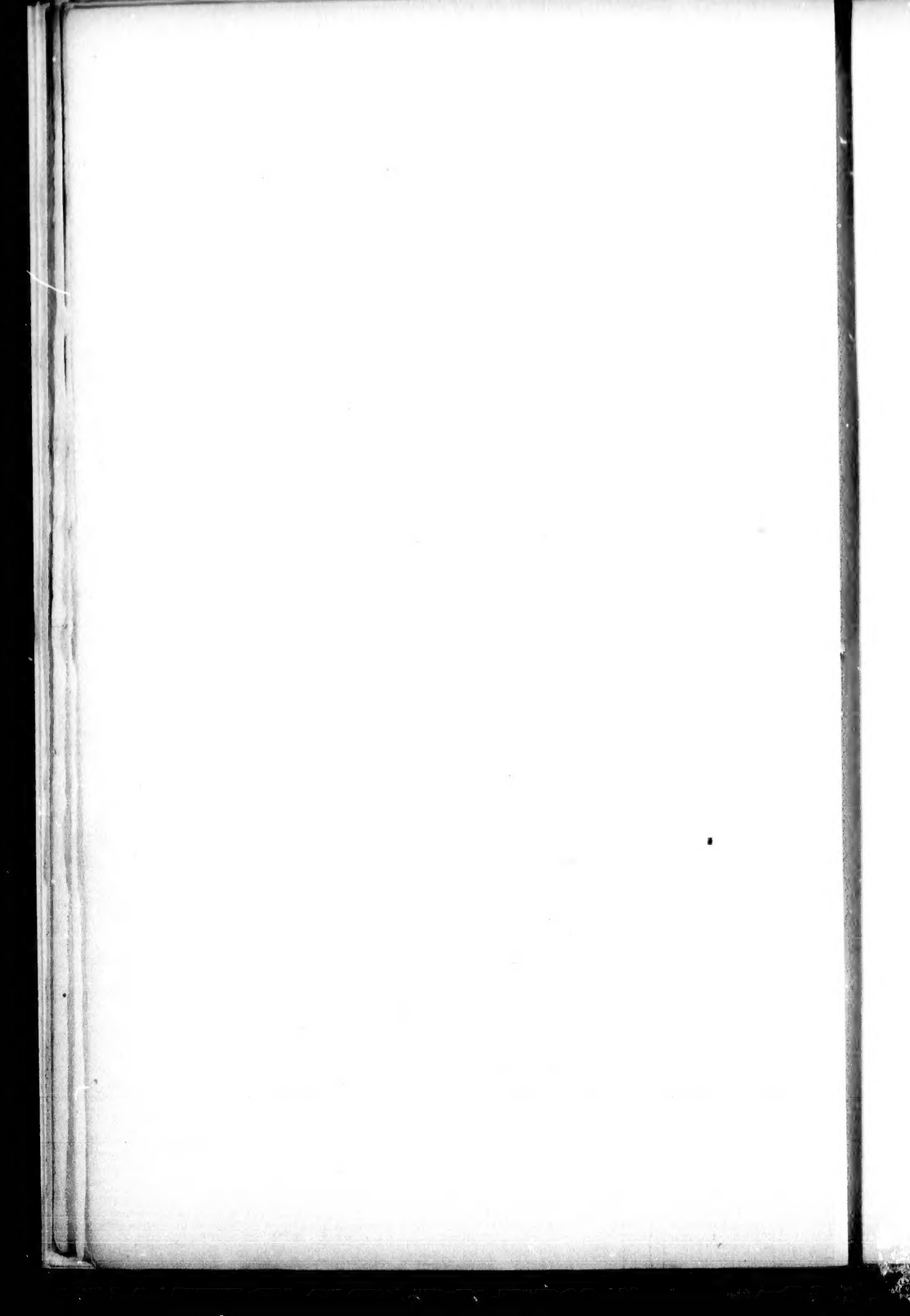
That, by reference to the various documents which your Memorialist furnished to the Executive Government of the Province, during the Administration of the Earl of Gosford, it will be found, that your Memorialist, has completely and irrefragably proved his innocence of the charges alleged against him. But, even had the case been otherwise, he is at a loss to know by what authority, legal or constitutional, any improper conduct on his part, as a private individual, could have been made the ground of his removal from the public offices which he held, by virtue of services rendered to the Crown, and approved of and commended by some of its most eminent servants. Nevertheless, in his private capacity aforesaid, your Memorialist never shrunk from a fair and impartial trial.

That the injury which, in consequence of such illegal and unconstitutional proceedings, your Memorialist has sustained in his character, reputation, and property, is great and ruinous. The emotions of his mind, upon the bare reflection of such an injury, will not admit of his dwelling upon it here. But he cannot refrain from stating to your Excellency, that, contrary to every principle of right and justice, he has been proscribed and oppressed, without trial ; that, not only as a Public Officer, having a right to the most favourable construction upon his conduct, but as a British subject, he was entitled to a fair and impartial trial before condemnation and punishment ; and that, having been condemned and punished, in a manner at variance with the dictates of law, and the principles of the British Constitution, he deems himself to be fully and fairly entitled,

not only to a restitution to his former offices, or an equivalent, but to a compensation for the loss which he has sustained, in consequence of having been so suddenly and unjustly deprived of the means of supporting himself and those depending upon his exertions and prospects, as a public and well behaved Officer of the Crown.

That your Memorialist, therefore, sincerely and respectfully prays, that your Excellency will be pleased to adopt the most efficacious measures in your power, as the Representative of a just, gracious, benevolent, and constitutional Sovereign, for restoring your Memorialist to the integrity of the offices of which he has been illegally and improperly deprived; or bestow upon him some equivalent for their loss, by appointing him to another office or offices, of equal emolument and respectability.

And your Memorialist, as in duty bound, will ever pray.



C A S E
OF
DAVID CHISHOLME,

OF THE CITY OF MONTREAL ;

**LATE CLERK OF THE PEACE AND CORONER, OF THE DISTRICT OF
THREE RIVERS.**



It is now about seventeen years since I landed on these shores from my native country, Scotland. During the first five of these I was employed in editing and writing different publications, the invariable object of which was to inculcate and maintain pure morality and sound constitutional principles of justice and freedom. I was educated with a view to the learned profession of the law, and practised as a Solicitor and Notary Public in Scotland. I also held some legal official appointments in that country. But my emigration into this Province having been the result of a sudden and rather romantic incident, which it is unnecessary to dwell upon here ; and finding my profession of no avail to me in a Colony, whose law and language were foreign to those of the Parent State, I was led to the exercise of my humble talents, in the capacity of a literary and political writer, as the only ready means of earning a respectable livelihood. Little did I then think, that, in a British Colony, ruled and governed, as it ought to have been, by the wise, liberal, and just institutions of the

Mother Country, the principles which I avowed and the sentiments which I expressed in my writings, should have been made the groundwork of a factious and malicious persecution, which has terminated in an attempt to ruin my prospects and destroy my character. But so it was, as we shall find more fully in the sequel.

The name of the late and lamented Earl of Dalhousie, who so long and meritoriously represented a British Sovereign in this Province, is one which cannot be alluded to, at least by me and the friends of British supremacy in this country, without the deepest veneration and the sincerest respect. What merits that great and good man may have discovered in so humble a person as I am, it does not become me either to conjecture or surmise. But I am proud and grateful to be able to state, that his Lordship was pleased to deem me not altogether unworthy of his friendship in private life, and of his patronage as Governor in Chief. On the 11th of November, 1826, I was appointed Clerk of the Peace in and for the District of Three Rivers. It was the spontaneous gift of his Lordship ; and was offered in the expectation that it might ultimately lead to a more advantageous office in the public service of my country. Nor, though at a somewhat remote period of time, was the hope altogether disappointed. My Lord Aylmer is also a Nobleman of eminent virtues and qualities, both public and private. He, too, while administering the Government of this Province, was pleased to think my services to the Crown deserving of his countenance, and of some additional compensation. In a communication, directly from his own hand, and framed in terms of condescension and friendship, which have impressed upon my heart obligations of sincere and lasting gratitude, his Lordship informed me, that, in addition to the situation which I then held as Clerk of the Peace, he had appointed me to the office of Coroner for the District of Three Rivers. This took place early in 1834.

In the meantime, from 1829 to 1835, I acted as Private Agent for the Secretary of the Province, in issuing shop and tavern Licenses at Three Rivers. In the month of September of the latter year, I resigned this Agency, which only yielded an average income of twenty or twenty-five pounds a year. I was induced to do so, because I understood from the Provincial Secretary himself, as well as through

other channels of information, that since the arrival in the Province of the Earl of Gosford and the other Royal Commissioners, a plurality of public offices, no matter however compatible or reduced in emolument, had become peculiarly obnoxious to Government. It was true, that my situation of Private Agent to the Provincial Secretary, was not a public office in any point of view, and that, not being accountable to Government for the discharge of its duties, Government could neither, in right nor in justice, recognize it as coming within the denomination of a plurality of public offices. But I had no desire to involve either the Provincial Secretary or myself in any discussion upon the subject; and, therefore, I gave the Agency up. The following is a letter which, not long afterwards, I received from my constituent :—

2d January, 1836.

MY DEAR SIR,—I made an unsuccessful attempt to see you before your departure from Quebec; and regretted very much to learn from Mr. —, that you had been so unwell. I have made the offer of the Agency at Three Rivers to Mr. Kimbert, stating that you had expressed a wish to resign it. You could not have held it without making a sacrifice which it would not be worth. When you make your usual statement, to the 5th instant, send me back the Licenses on hand; and although our business connexion will there end for the present, I shall not cease to be actuated by the feelings of esteem and friendship with which I have long regarded you. Wishing you and yours many happy returns of the season, believe me, my dear Sir, very truly yours,

D. DALY.

To D. Chisholme, Esquire.

Such are the amicable and satisfactory terms in which I officially parted with the Provincial Secretary. But I must revert somewhat.

It was not until some time after I had officiated as Clerk of the Peace at Three Rivers, that I discovered the intensity and malignancy of the animosity with which I was regarded by a factious and turbulent party in the Province, in consequence of the side which I had taken in political discussions, and especially for being identified, as it was asserted, with the measures of the Earl of Dalhousie. That lamented nobleman and faithful public servant, was among the first who discovered the career of crime and folly which the party I have just

mentioned were determined to run in this Province, and which has since, as I then frequently prognosticated it would do, terminated in rapine and bloodshed. The Earl of Dalhousie took his measures accordingly. He did not hesitate to exercise every function of his high office, all the powers of the Constitution, and every authority of the laws, for the purpose of arresting the progress of this headlong course. If he failed in the attempt, it was not his Lordship's fault. He did his duty as became an honest and conscientious servant of the Crown ; thus entitling himself to the approbation of the wise, and the universal applause of the loyal. His measures, however, were attended with this singular result, that while the conduct of the individual was approved of by the Government of the time, his policy was either thwarted or suffered to lie in abeyance till a more convenient season. Accordingly his Lordship left the Province, to attain higher honours in another hemisphere ; but those who had actively aided him here in his difficult task, were left behind, subject to the insults, malice and persecution of their enemies. I was, unfortunately, one of those who had been left in this unpleasant predicament. It now appeared, that to have been in any respect connected with, or befriended by, the Earl of Dalhousie, was a crime of the deepest dye. To have been appointed to office under his Administration was unpardonable. I was, accordingly, assailed by every possible annoyance, public and private. I was libelled and lampooned by the press of the party to which I have alluded ; I was denounced, by name, at secret and public meetings ; I was menaced with personal injuries of various kinds ; and, to conclude this catalogue of the petty spite and malice of a base revolutionary faction, I was threatened with a deprivation of office, on the earliest possible occasion. Whether I deserved such treatment, as a political partizan of the Earl of Dalhousie, need not now be dwelt upon ; but, certainly, I must be permitted to say it for myself, that neither as a private individual, nor in my capacity of a public officer, did I ever commit any act of insult or oppression that could justify any thing like the personal and official persecution to which, for years, I had thus been subjected. But, alas ! it is not for opponents, like those with whom I had unfortunately to deal, to discriminate between the moral actions of the man, and the public professions or principles of the politician.

To be publicly patronized, or privately befriended by Lord Aylmer, whose measures were also calculated to arrest the revolutionary proceedings of unprincipled men, was deemed to be no less a crime than to be connected with the Earl of Dalhousie. In truth it was an aggravation of that offence, if so it must be termed; and I daily witnessed a more fixed determination on the part of my enemies to carry their intentions against me into execution. But it was not until the arrival in the Province of the Earl of Gosford and the other Royal Commissioners, that an opportunity had been afforded to those enemies for realizing their long-meditated designs. The policy of this nobleman, and the conciliatory instructions of which he was the bearer, whatever may have been their beneficial object, were, it must be admitted, exceedingly well calculated to aid the views and minister to the hopes of the revolutionary faction by which the Province had so long been cursed; and the fatal result has proved that it was so. They immediately began, through the medium of the perverted powers of the House of Assembly, to attack, in a more open and daring manner than they had hitherto discovered, the very foundations of Government and the Constitution. Among the other schemes resorted to, for the destruction of those bulwarks of society, was an indiscriminate assault upon the character and conduct of every public officer in the Province. A system of inquisitorial proceeding, fraught with the most violent inroads upon all species of private and social confidence, was introduced into the popular branch of the Legislature—no matter through what means the charge had been elicited—no matter how sacred the confidence the discovery had violated, or how solemn the engagement it had broke through. The time, also, was one, in which, to use the words of a lamented statesman, the popular appetite fed upon attacks on public men. The favourite doctrine was, that public men must necessarily be corrupt; and they were the purest patriots, and the staunchest friends of Canadian freedom, who presented most charges against them. The natural consequence was, that the halls and Committee-rooms of the House of Assembly soon became crowded with public officers, as well as hired witnesses, ready to prove their guilt of whatever charges might be brought against them. It would be unreasonable to suppose that I could escape this

general hunt of obloquy, and overt design to overthrow the most valuable institutions of the Province. On pretence, therefore, of inquiring into the nature and amount of the fees and emoluments of public officers, I was summoned before a Committee of the House of Assembly, and by that Committee reported to the House as unworthy of holding my situations of Clerk of the Peace and Coroner of the District of Three Rivers. Accordingly, a solemn demand was made upon His Excellency the Governor-in-Chief, to remove me from all offices which I held under the Crown. But however much inclined the Earl of Gosford may have been to gratify the wishes of the Assembly, he did not venture to comply with their request on the present occasion, without affording to me an opportunity to make my defence to the charges preferred against me. I made such defence, and upon being transmitted to His Majesty's Government, in England, it proved signally and honourably successful. It is unnecessary, in this place, to allude to the nature and scope of that defence; but future occurrences require, that the following unsolicited letter from the Magistrates of Three Rivers, which formed a part of it, should here be communicated:—

David Chisholme, Esquire.

THREE RIVERS, 8th March, 1836.

SIR,—We, the undersigned Magistrates for the District and Town of Three Rivers, having understood that certain charges have been made against you, as Clerk of the Peace of this District, by the Honourable House of Assembly, we feel ourselves called upon, at this moment, to testify, that we have been acquainted with you, as Clerk of the Peace for this District, nearly ten years; and that we never knew or heard of any complaint against you, but, on the contrary, that your conduct as a gentleman and Clerk of the Peace, has always appeared to us deserving of the highest praise; and we beg, therefore, that you will accept this tribute of our approbation and respect, as coming from the Magistrates who have had every opportunity of knowing and appreciating your talents and integrity as Clerk of the Peace for the District of Three Rivers. You will, therefore, make such use of this, in your defence, as you may think proper. We are, Sir, your obedient humble servants,

RENE KIMBER, J.P.

S. GRANT, J.P.

JAMES DICKSON, J.P.

HENRY F. HUGHES, J.P.

E. MAYRAND, J.P.

But it is as difficult to satiate the malevolence of private enemies as it is to stop the tide of political factions. Finding that I had escaped their toils in the manner just mentioned, I soon found out that the persons, who had always been ill-disposed towards me, on account of my political opinions and writings, had determined to ensnare me on some other point ; and, if possible, to effect my ruin, no matter how cruel the attempt or treacherous the means. And, to a certain extent, they succeeded ; but at a period, be it remembered, when the arm of public authority was enervated in the Province, by conciliating the worst enemies of the country ; when the local Government either would not or could not protect its own officers ; and when, to sacrifice a public servant to the vindictive cravings of a destructive faction, was esteemed, in no small degree, a public virtue.

On the 9th of September, 1836, twelve months after I had resigned my situation as Agent for the Provincial Secretary, in the issuing of shop and tavern Licenses—I was waited upon in my office at Three Rivers by that gentleman. He informed me, that a Mr. Dubord, of Champlain, had lodged a formal complaint against me, for having refused to issue a license to him, notwithstanding that he had paid me the necessary sum of money for so doing ; and that the object of his (the Provincial Secretary's visit) was to obtain some explanation on the subject. I immediately stated to Mr. Daly, what was the fact, that Mr. Dubord had always been very irregular in taking up his licenses ; that I had so long before then resigned my agency, I could not, at that moment, remember the precise facts of the case ; but that I felt perfectly conscious of never having done any thing unworthy of the confidence reposed in me. In this Mr. Daly readily acquiesced ; but, said he, "we have all of us our enemies, and you have yours. You are aware of the state of the country, and the spirit that exists in certain quarters, with respect to public officers ; and the fact is, that I have been compelled to make some official inquiry into this business, otherwise it was intimated to me, that I should myself be prosecuted by the House of Assembly. I will, therefore, write you an official letter, and receive your explanation ; and if that will not satisfy them, we cannot help it." The following is the official communication here alluded to :—

THREE RIVERS, 9th Sept. 1836.

SIR,—Mr. L. Dubord, of Champlain, having recently called at my office, and having exhibited to me your receipt for the sum of £4 7s. 6d. which he paid you for a shop license, to be afterwards delivered to him, and which he has not since received, although he demanded it; and not finding his name included in the list of licences furnished by you to me last winter, I am under the necessity of requesting some explanation on the subject. It is also necessary, I should add, that it has been alleged that several other individuals have received similar receipts from you, without, at any subsequent date, having been able to obtain their licenses, an allegation the truth of which, I need not assure you, I trust it will be in your power to deny, but upon which I am also compelled to demand explanation. I hope to be favoured with your reply at your earliest convenience. I have the honour to be, Sir, your most obedient servant,

D. DALY, Secy.

D. Chisholme, Esquire, etc. etc. etc.

To this letter, the following was my reply :—

THREE RIVERS, 10th September, 1836.

SIR,—I have received your letter, of yesterday, and in reply, beg leave to state to you, that agreeably to your written permission, I have frequently given receipts for monies deposited with me for licenses, before the receipt of them from Quebec, as well as when I ran out of them. I am prepared to shew, that the same practice was pursued by my predecessor, your present agent here, Mr. Kimbert. By this means, it is very probable, that when licenses were called for, I did not take the precaution of exchanging the licenses for the receipts, and that, in some few instances, the licenses themselves may not have been called for. But permit me to deny in the most positive and unequivocal terms, that I have ever declined or refused to deliver a license, when demanded, either to Mr. Dubord, or to any other person. For some years, Mr. Dubord was in the habit of informing me, that Mr. James Bell would take up his license as a shop-keeper; but this was never done, though this gentleman, as I believe, stated to me he would do so, or become answerable for Mr. Dubord's license. I have the honour to be, Sir, your very obedient servant,

DAVID CHISHOLME.

D. Daly, Esquire, etc. etc. etc.

On the 16th of September, I received the following official communication from the Civil Secretary of the Province :—

CASTLE OF ST. LEWIS,
Quebec, 15th September, 1836.

SIR,—I am directed by the Governor in Chief to apprise you, that, in consequence of an official communication addressed to him with regard to your conduct while employed by the Provincial Secretary as his Agent for the issue of Shop and Tavern Licences, for the District of Three Rivers, by which the public Revenue is supposed to have suffered ; he has commanded Mr. Vézina, one of His Majesty's Counsel, and Mr. Daly, the Provincial Secretary, thoroughly to investigate this matter, and report the evidence for His Excellency's information. His Excellency expects you, as a Government Officer, to afford these gentlemen every facility in your power in their inquiries, and to attend before them when required. I have the honour to be, Sir, your most obedient servant,

S. WALCOTT,
Civil Secretary.

To D. Chisholme, Esq.

Now, it will, at once, appear from this communication, that nothing could be more illegal and oppressive than the principles upon which the singular inquiry to which it refers, was to have been conducted, from the very beginning. In the first place, an official complaint is here said to have been made against me ; but I was not then, and have never since been, favoured with a copy of it ; nor do I know what may have been its nature, substance, or scope. In the second place, I was directed to attend before the judges appointed to inquire into my conduct, as a private individual—amenable to no authority but the laws of the land—not to defend myself—not to refute any false evidence that might be brought against me—not to object to the illegal and unprecedented character of the inquiry itself—not to demur to the authority of the inquisitorial tribunal by which I was about to be tried, nor to the validity of its proceedings, nor to the truth of the evidence and the character of the witnesses who might be adduced against me ; but, strange to state, only “ when required,” in my capacity of a Government Officer, for the purpose of proving my own delinquency, if possible ; and, as such, to give countenance and a show of legality to proceedings that were unheard of since the conquest of the Province. Yet I did not refuse to comply with the commands imposed upon me. On the contrary, I expressed a willingness to appear before the Commissioners, “ as a Government Officer, to afford

those gentlemen every facility in their inquiries ;" but circumstances over which I was unable to exercise any controul, prevented me from carrying my intentions into execution, though such circumstances did not prevent the Commissioners from obtaining, through me, all the information that they could possibly desire, as we shall presently find.

Late in the day, of the 16th of September, I was called to the parish of Nicolet, for the purpose of holding a Coroner's Inquest, and returned home at night, extremely unwell, labouring, at the same time, under the effects of severe personal injuries, which I had sustained some weeks before, in consequence of the overturning of my caleche, in returning from the performance of public duty, at River du Loup. I became so extremely unwell, next day, that I was unable to rise out of bed, and medical assistance was called in, though contrary to my wishes. It was in this situation that I received the first intimation from Messrs. Vézina and Daly of their intention to meet, on the 19th of September, and proceed with their inquiries. It was, of course, out of my power to attend them, of which a certificate was furnished to them by my physician, Dr. Carter. But I did not fail to transmit to the Commissioners, under the care of the High Constable, all papers, records, and documents that were in my custody, in relation to the inquiry going on. I know not how long the inquiry lasted. It was to me a matter of darkness and mystery ; but, on the 21st, I had so far recovered my health, as to be able to write the following letter to the Commissioners :—

THREE RIVERS, *September 21, 1836.*

GENTLEMEN,—I am now so far well as to be able to sit up and write this. As neither the communication which I have had from the Civil Secretary, on the subject of my conduct whilst Agent for Licences in this District, nor my late correspondence with you, has enabled me to form any conjecture of the charges brought against me—of the nature of your present inquiries—of the evidence adduced—nor of my right to be present myself or by counsel at the examination of witnesses, I have to request that you will be so good as to instruct me with respect to these matters ; and, in particular, furnish me, forthwith, with a copy of such evidence as may have been taken against me, that I may have an early opportunity of rebutting and explaining any thing that may appear to my prejudice. I have the honour to be, Gentlemen, your most obedient servant,

DAVID CHISHOLME.

Messrs. Vézina and Daly.

To this communication, I received the following reply :—

OSTROM'S HOTEL, September 21, 1836.

SIR,—In reply to your letter of this date, we have to refer you to Mr. Daly's letter, of the 9th instant, for information as to the nature of the present inquiry. We would not have had objections to your being present at all our proceedings in regard to it, had you expressed a wish to that effect. With regard to the evidence we have taken, we consider it our duty to transmit it to His Excellency the Governor in Chief, with your letter of this date, when His Excellency will communicate it to you or not as he sees fit, but the communication of it, if refused, will not be at our instance. We have the honour to be, Sir, your most obedient servants,

P. VEZINA,

D. DALY.

D. Chisholme, Esquire.

Now, nothing could have been more unsatisfactory than such an answer to my simple and most reasonable demand, of being informed of the nature of the charges brought against me, and the scope of the inquiry formed upon them. Was Mr. Daly's letter to me, of the 9th of September, the "official communication" said to have been addressed to the Governor in Chief, with regard to my conduct, in the Civil Secretary's letter to me, of the 15th of September? Surely not. They were two separate and distinct documents, which must stand or fall by themselves. Messrs. Vezina and Daly here inform me, that the communication of the latter to me, of the 9th of September, constituted the nature and substance of the charges against me. If so, what could be more vague and indefinite? Was that a sufficient justification of so formal and solemn an investigation as this? But, granting that it was, what right had Mr. Daly to enter upon such an investigation on his own mere authority, and with no other grounds for doing so, than his own communication to me? In such a case, my reply was a sufficient answer, and formed as good a plea in defence, as Mr. Daly's letter could form a charge of criminality. Then what are we to say as to the "official communication" addressed to the Governor in Chief, and with regard to which alone my conduct, as a Government officer, was to have been regulated, notwithstanding that I have never yet been favoured with either the

night, or a copy of that official communication? This was rather an unpleasant dilemma for a man in my situation to be placed in. To which of the two complaints was I bound to apply myself, in order to ascertain the true nature of the charges made against me, for the purpose of refuting them? To the undefined and unfounded one contained in Mr. Daly's letter, of the 9th of September; or to that mysterious and as yet unknown one, contained in the "official communication" made to the Governor in Chief? It is impossible to determine. It is no wonder, then, that I was anxious, at the outset, to obtain from the Commissioners of Inquiry some information as to the nature and extent of the charges made against me. It is as little wonder, that they were totally incapable of complying with my request.

As to what is said by Messrs. Vezina and Daly, with regard to their having no objections to my being present at the whole of their proceedings, if I desired it, such a piece of intelligence was as unsatisfactory as the rest of their unsatisfactory letter. They ought to have known, that there is a great difference between the mere tacit admission of the privilege of a spectator to be present in a Court of law or inquiry, and the positive right of an accused party, not only to be present, but to become an actual party to the proceedings, by objecting, if necessary, to the members or constitution of the Court, by cross-questioning the witnesses, or protesting against their admissibility. On all these important points,—points which could only be referred to by me in my letter for information,—the Commissioners were altogether silent. At any rate, it appears from their answer, that much of the evidence had been gone into; and it was now too late to enter into any further discussion as to the legality of their proceedings in that respect.

Thus situated, and being well informed as to the illegal and unprecedented course pursued by the Commissioners, in the examination of witnesses, as well as in summoning such witnesses before them, I deemed it to be my duty to transmit the following letter of protest to Messrs. Vezina and Daly. This had been rendered still more necessary, because the inquiry had naturally given rise to such a popular clamour and outcry against me throughout the district, that, should any future legal question arise with regard to it, I could never obtain

hat fair and impartial investigation of my case and conduct, which the laws of the land had prescribed :—

THREE RIVERS, 22d September, 1836.

GENTLEMEN,—I had yesterday the honour of being favoured with your letter of that date, referring me for information, as to the nature of your present inquiries, to Mr. Daly's letter to me of the 9th instant ; but upon doing so, and considering the reports which have this day reached me from some witnesses examined before you, I do but bare justice to myself in earnestly and firmly protesting against both the substance and the scope of the evidence adduced, as totally inapplicable and irrelevant to the charges in question.

As endowed with all the rights and privileges of a British subject, I also beg leave to protest against the Commission of Inquiry under which you are said to act, as being both illegal and unconstitutional. It may be founded on an "official communication ;" but against that official communication itself, I likewise protest, as being the result of a deep laid plot and conspiracy to ruin and destroy my character as a man, as well as my integrity as a public officer.

Being the party accused, I ought, from the beginning, to have been enjoined and invited to be present at every step of the proceedings against me. I protest against the infringement of my rights in this behalf. I should otherwise have been afforded an opportunity of more fully ascertaining the precise nature of the authority by which you act ; against which I again beg leave to protest, as at variance with every principle of justice and right.

I deny the truth of the allegations charged against me ; and protest against any evidence that may have been taken by you in support of them, without permitting me to be present to elucidate the truth by cross-examination, should I deem it necessary. In fine, I beg leave to protest against the whole of your proceedings, as illegal and inquisitorial—as defamatory of, and ruinous to, my reputation, in every respect—as pernicious to the ends of justice—as an innovation upon the due course of law—as inconsistent with the proper administration of justice—at variance with the law of the land—and my just rights and liberties as a British subject. I disown the whole of your authority ; and do now and hereby solemnly protest against it. But I disclaim all personal reflections ; and have the honour to be, Gentlemen, your very obedient servant,

DAVID CHISHOLME.

D. Daly and P. Vézina, Esquires.

But the inquisition proceeded ; and I heard no more of it, directly or officially, until the 27th of September, when I received a letter

from the Civil Secretary, intimating to me that, as I was not present when the evidence was taken against me, and had not been heard in my own vindication, he was commanded to enclose to me a copy of the statements in question, with a request that I would, without any avoidable delay, furnish, for his Excellency's information, such explanation as I might wish to make, accompanied with such proofs as I might think it advisable to adduce. After having sustained charges against me, the exact nature and scope of which had not been intimated to me; after having heard evidence against me in my absence; and after having closed against me the door of self-defence, explanation, and cross-examination, until the case of my adversaries had been completely gone through and adjusted to their satisfaction, I must confess, that I thought myself rather hardly, if not cruelly, dealt with, in being thus suddenly called upon to enter the lists alone, and, at my own charges and expenses—and without the countenance, aid, or assistance of a Government that was bound to protect its officers till legally convicted of an offence, to institute a new inquiry into the subject matter of complaint. I found that the witnesses adduced against me had not only resided in all parts of the district, but that some of them had removed to other parts of the province. How was I again to summon them together? How was I to visit them at their respective places of abode? And seeing that I had been abandoned by Government, and left entirely to my own resources for the vindication of my character, how could I extort the truth from unwilling witnesses, who had already given their evidence in chief on behalf of a prosecution, where there was neither judge nor jury to sift the matter to the bottom? But there was no alternative. Alone and unprotected as I was, I undertook the difficult and arduous task. In a poor state of health—at a most inclement season of the year—in bad and almost impassable roads—at much personal hazard and expense—and subject to the gaze and derision of vulgar and prejudiced enemies—I was compelled to travel to the farthest boundaries of the district, in search of evidence to counteract that which had been brought against me. And I did counteract and rebut it. The evidence which I collected flowed from the same source with that upon which my dismissal from office was founded; and the charges

themselves, as well as the evidence brought in support of them, were totally and entirely refuted, word for word, and fact for fact. I repeat it, that even under the difficulties and disadvantages I have spoken of, the whole of the evidence upon which the Governor-in-Chief had been pleased to proceed against me so illegally, was, and now stands refuted, word for word, and fact for fact.* That such is the case, will be most satisfactorily proved by the following parallel statements of the evidence said to have been taken, by Messrs. Vezina and Daly against me, and of that afterwards collected by myself, in refutation of the charges brought against me :—

CHARGES.

*Three Rivers, 17th September, 1836 —
Evidence taken by Messrs. Vezina
and Daly, regarding the issue of Li-
censes by Mr. David Chisholme, in
the District of Three Rivers, as
Agent for the Provincial Secretary.*

*E. L. Dubord, of Champlain, shop-
keeper,*

States that he has been a shopkeeper for the last three years, that he paid the sum of £4 7s. 6d. each year, to Mr. Chisholme, but that he never received one, nor did he know the form of a license, until he received one this year from Mr. Kimbert. He produced receipts of which the following are copies :—

"Mr. L. E. Dubord has deposited in my hands money for a merchant's license.

DAVID CHISHOLME, Agent."

DEFENCE.

It is proper to observe, in this place, that although it appears by the opposite heading to the evidence taken against me, the proceedings of the Commissioners commenced on the 17th of September, yet it was only on that day I received notice of their intentions to commence the inquiry two days afterwards, to wit, on the 19th of the month, as will be proved by the subjoined letter from Mr. Vezina.†

*E. L. Dubord, shopkeeper, Cham-
plain.*

CHAMPLAIN, 24 Sept. 1836.

MONSIEUR, — Tel que je vous ai déjà dit je n'ai jamais fait une plainte formelle contre Mr. Chisholme, par rapport aux licences. Votre humil. servr.

L. E. DUBORD.

James Bell, Ecuyer.

{ CHAMPLAIN MILLS,
Oct 15th, 1836.

MY DEAR SIR, — Yours, of yesterday, I have received; and, in reply, I beg to

* The last two or three sentences are extracted from a communication to the Civil Secretary, which will appear in the sequel.

†

TROIS RIVIERES, 17 Septembre, 1836.

MON CHER MONSIEUR, — Je crois devoir vous prévenir que M. le Secrétaire Provincial Daly, Ecuyer, est arrivé en cette ville pour procéder avec moi, par ordre de Son Excellence le Gouverneur en Chef, à une certaine investigation dans certaines affaires que vous concernent ainsi qui vous devez en avoir été prevenu par le Secrétaire Civil de Son Excellence le Gouverneur en Chef; et que nous avons fixé pour y procéder à Lundi prochain à huit heures du matin, à l'hôtel d'Ostrom, en cette ville où nous vous notifions et prions de vous trouver avec tous les papiers livres et documents qui ont rapport à des affaires ou de nous faire réponse de vos intentions à cet égard. Votre très humil. obéiss. servr.

P. VEZINA.

David Chisholme, Ecuyer; 3 Rivières.

CHARGES.

"Recu de Sieur L. Dubord, marchand, la somme de £4 7s. 6d. courant, pour valeur de la license, pour l'annee 1835, jusqu'à l'an 1836.

Par ordre de David Chisholme. Ecuier,
ANTOINE HAMEL, fils.
Champlain 19 Juin, 1835."

Mr. Dubord prefers retaining possession of the original receipts, but he will attest the facts stated, and produce the receipts whenever required to do so.

N.B. Mr. Dubord's name is not returned in the lists furnished by Mr. Chisholme of shop licenses issued by him in 1834 and 1835.

DEFENCE.

say, that I recollect perfectly Dubord and Bellerive, both inhabitants of the Seigneurie, having spoken to me about their licenses, in the years 1833 and 1834. I may have promised to take them up. This, however, I certainly did not do, nor did they ever pay me for the same. I am yours sincerely,

JAMES BELL.

D. Chisholme, Esq.

I do hereby certify, that although I got a receipt from Mr. Chisholme, for money paid for my license, I did not call back upon him to exchange the receipt for my license; that, for 1834, I understood Mr. James Bell would take up my license; and that, for 1835, when I paid money to Hamel, he shewed me no order from Mr. Chisholme to receive it.

L. E. DUBORD.

Champlain, 17th October. 1836.

OBSERVATIONS.—Mr. Dubord has, this day, seen his name on my list of licenses for 1832; and he agrees with me in thinking, that it was placed there by mistake, for 1833—his name being the last on the list for 1832, instead of the first for 1833. In 1834, Mr. Dubord was returned as a tavern-keeper; but did not qualify as such. As to the late Antoine Hamel, I shall here, once for all, beg leave respectfully and decidedly to decline taking issue upon any of his transactions, with respect to licenses. He was never my "agent," my servant, nor my clerk; but the servant of the public, by whom he was paid—having been appointed Crier and Police Messenger by the Court of Quarter Sessions. It will thus be seen, that Mr. Dubord could not, as stated by him in his evidence, have "paid the sum of £4 7s. 6d. each year to Mr. Chisholme;" and that, contrary to the charge in Mr. Daly's letter to me, of the 9th of September last, he never "demanded" the shop license in question.

DAVID CHISHOLME.

October 17, 1836.

CHARGES.

Adolphus Stein, of Gentilly, shopkeeper,

States that he has kept a shop for four years, and has never received a license from Mr. Chisholme, although he always paid for them, except one, which he will produce; and one receipt from Mr. Chisholme, which he will also produce, being for the amount of a license which he never received. He also states, that Mr. Gers paid for two licenses for him, which he never got.

N.B. Mr. Stein's name appears in Mr. Chisholme's list of licensed shopkeepers for 1835, but not for 1834.

DEFENCE.

Adolphus Stein, shopkeeper, Gentilly.

I do hereby certify, that for the years 1833, 1834, and 1835, I took up from Mr. Chisholme, shop licenses for Mr. Stein of Gentilly.

GUSTAVUS GERS.

St. Anne, 4th Oct. 1836.

OBSERVATIONS.—It is thus clear, that Mr. Stein could not, as he did not, produce the receipt alluded to; his friend and partner, Mr. Gers, having uniformly taken up his licenses for him.

DAVID CHISHOLME.

CHARGES.

19th September.

Marie L. Gauslin, tavern-keeper, Three Rivers,

Paid her license to Mr. Chisholme; and does not exactly recollect whether or not she got a license or a receipt; but she will produce either.

N.B. Did not produce either.
Sept. 22.

Veuve Meuriotte, tavern-keeper, Three Rivers.

Paid her money to Mr. Chisholme himself, last year, who told her, he had no licenses then, but that she had nothing to fear; and might sell, as he had entered her name, or something to that effect.

Veuve Ritter, tavern-keeper, Three Rivers.

Paid Mr. Chisholme for her license last year, but never received it, having been assured, that she might sell without danger, by Mr. Chisholme, as he had enregistered her name. She got no receipt.

N.B. Her name is not returned, as licensed in 1835, by Mr. Chisholme.

Mrs. M. T. Perrault, or Boudreau, shopkeeper,

Paid her money for a license, in 1835, which she never got. Hands in a certificate, A, which she received from Mr. Chisholme, in lieu of a license.

DEFENCE.

Marie L. Gauslin, tavern-keeper, Three Rivers.

OBSERVATIONS.—This woman never paid me for her licenses. I do not know even who she is. At all event she makes no charge against me; and I need not, therefore, enter into any explanation of her statement.

DAVID CHISHOLME.

Oct. 6, 1836.

Widow Meurissette, tavern-keeper, Three Rivers.

I hereby certify, that for the years preceding 1835, I have regularly received my licenses; and that, for that year, I deposited money by two several instalments for my license; but did not call for it, being told by the late Antoine Hamel, that he would bring it to me.

her
MARIE X JOS. MEURISSETTE.
mark.

Witness,
HONORE GODIN.

Widow Ritter, tavern-keeper, Three Rivers.

I do hereby certify, that I did not pay for nor call for my license, for 1834; and as to that for 1835, being told that the licenses did not arrive from Quebec, I did not call for mine for that year, nor at all see Mr. Chisholme on the subject.

her
MARGARET X RITTER,
mark.

Witness,
HONORE GODIN.

Mrs. T. M. Perrault, or Boudreau, shop-keeper, Three Rivers.

I hereby certify, that it was not I, but my husband, that went to Mr. Chisholme, regarding a license; and that I did not, at any time, call upon Mr. Chisholme for my license, in exchange for money or certificate.

MARIE THERESE PERRAULT.
Three Rivers, 7th Oct. 1836.

CHARGES.

Joseph Rocheleau, tavern-keeper, Cap de la Magdelaine.

Has kept a tavern for three years, for one year of which he only got a receipt for his money from Mr. Chisholme's Bailiff, Antoine Hamel, which he produces, marked B.

N.B. He does not appear in Mr. Chisholme's lists for 1834 and 1835, as licensed.

Agathe Fortin, tavern-keeper, Three Rivers.

Paid her license for three years to Mr. Chisholme by the hands of her husband or son-in-law, but never got any thing but receipts, which she will produce, if she can.

N.B. Did not again appear or send in receipts—is not returned in 1834 or 1835.

Jean Terreau, tavern-keeper, Three Rivers.

Has been a tavern-keeper for three years—in 1834 paid his money, and hands in a receipt for it, marked C. In 1835, he paid his money to Mr. Chisholme, who assured him nothing more was necessary—got neither license nor receipt; and Mr. Chisholme said he might sell without danger. He first received a license this year from Mr. Kimbert. He is willing to attest the above facts on oath, if necessary.

N.B. He is not returned by Mr. Chisholme, as licensed, in 1834 or 1835.

Widow Hamel, tavern-keeper, Three Rivers.

Says her husband always took out licenses, but she never saw them—her husband might have had them in the

DEFENCE.

NOTE.—This woman's husband is a pilot, and cannot be seen. Upon referring more particularly to my lists, I find that her name is entered for both the years 1834 and 1835, thus:—

"1834. May 24, No. 27. M. T.

Boudreau, Three Rivers.

"1835 " 19, 14. Ditto,

Ditto.

DAVID CHISHOLME.

Oct. 13, 1836.

Joseph Rocheleau, tavern-keeper, Cap de la Magdelaine.

OBSERVATIONS.—This man did not qualify himself, as a tavern-keeper, for the years 1834 or 1835; and if he paid money to Antoine Hamel I know nothing of the fact. I could not see Rocheleau.

DAVID CHISHOLME.

Oct. 6, 1836.

Agathe Fortin, tavern-keeper, Three Rivers.

OBSERVATIONS.—I have not seen this woman's husband for at least six years, and I never remember him to be in a condition to pay any sum of money; certainly he never paid any to me on his own or on his wife's account. Who her son-in-law is I cannot tell. I could not see this woman.

DAVID CHISHOLME.

Oct. 6, 1836.

Jean Terreau, tavern-keeper, Three Rivers.

I do hereby certify, that for the years 1834 and 1835, I did not call upon Mr. Chisholme for my licenses; having been told by the late Antoine Hamel, that it was not necessary for me to do so.

his
JEAN X TERREAU,
mark.

Witness,

JNO. C. FEARON.

Oct. 5, 1836.

Widow Hamel, tavern-keeper, Three Rivers.

OBSERVATIONS.—Widow Hamel has left Three Rivers. It was in 1834 that the late husband of this woman was first

CHARGES.

office of Mr. Chisholme, in which he was engaged every day as Bailiff. She has a license this year from Mr. Kimbert.

N.B. Antoine Hamel, her late husband, is returned by Mr. Chisholme, as licensed in 1834, but not in 1835.

Michel Girard, tavern-keeper, Three Rivers.

Paid his license money to Mr. Chisholme, who gave him neither license nor receipt; but told him to sell without fear, as he would settle the matter if he was threatened with a prosecution. Will attest the fact on oath, if required.

N.B. Is not returned licensed on Mr. C.'s list for 1834 or 1835.

Pierre Bealeu, shopkeeper, Three Rivers.

Paid for licenses in 1834 and 1835, to Antoine Hamel, Mr. Chisholme's Bailiff; got his receipt for each year; but never got a license—has lost or mislaid the receipt for 1834, but produces the receipt for 1835, marked D.

Beaulieu, Three Rivers.

Hands in Mr. Chisholme's receipt for the amount of a shop license, for his son, T. H. Beaulieu, of St. Leon, shopkeeper, marked E. which he declares he never could get, although he more than once applied for it; being always told, either that there were no licenses, or they were expected; and would be given when received—will attest the facts on oath, if required.

DEFENCE.

qualified as a tavern-keeper; and his license was delivered to him. In 1835, he did not take out his license, assigning as a reason, that he could not do so until his salary, as Crier of the Quarter Sessions, etc. should be paid by Government.

DAVID CHISHOLME.

Oct. 7, 1836.

Michel Girard, tavern-keeper, Three Rivers.

OBSERVATIONS.—This individual was returned as a tavern-keeper, for the first time, in 1835; and he never called upon me, nor paid me for his license. He has removed to Quebec. The oath of such an individual might be believed when taken; but certainly his mere *ipse dixit* is not entitled to the same complaisance, seeing that, when he made the foregoing declaration, he was smarting under the fear of being prosecuted for not being qualified as a tavern-keeper, never having occupied a house in that capacity.

DAVID CHISHOLME.

Pierre Bealeu, shopkeeper, Three Rivers.

I hereby certify, that for the year 1834, I paid for and received my license, as a shopkeeper, from Mr. Chisholme or Mr. Bolvin.

PIERRE BELEAU.

Oct. 7, 1836.

OBSERVATIONS.—How could he have receipts from Hamel for both years, if he received his license from me or Mr. Bolvin, for 1834, as here certified under his own hand?

I was never called upon to furnish lists of the licenses issued by me till after I ceased to be Agent; and it is probable that, in one or two instances, I may have omitted a name.

DAVID CHISHOLME.

Beaulieu, Three Rivers.

OBSERVATIONS.—Mr. Beaulieu declines to state to me the date of the receipt he alludes to; but it will be satisfactory to know, that his son's name is on the list of shop licenses for 1833, 1834, and 1835, which is not denied on the opposite side.

DAVID CHISHOLME.

Oct. 6, 1836.

CHARGES.

Ignace Caron, shopkeeper, Riviere du Loup.

Hands in Mr. Chisholme's receipt, marked F. for money for a license which he never got. He further states that Amable Gagnon of Maskinonge, got a certificate of payment for his license the same day, from Mr. Chisholme, and in his presence—will swear to the facts, if required.

Philip Panneton, shopkeeper, Three Rivers.

Paid his money for a license in 1835, which he did not get; but was told he was safe when the last instalment was paid, having paid the amount in different sums, as appears from receipts, marked G. of Antoine Hamel, Mr. Chisholme's Bailiff, and a letter from the same person, which he hands in. He got neither receipt nor license for the last payment, which he will swear to, if required.

N.B. He is not returned as licensed by Mr. Chisholme, for 1835.

Jean Bte. Martel, tavernkeeper, Becan-cour.

Has been tavernkeeper for eight years, during which time he has invariably paid for his license; for the last five years he never received a license, although he always got receipts similar to that which he now hands in, marked I. For four years he paid his license by Mr. Sheriff Ogden's bon, which Mr. Chisholme received as cash. For 1835, Mr. Chisholme himself owed the amount to him, and gave him a receipt as usual. Will furnish the remainder of the receipts, if he can find them; and will attest the above facts upon oath, if required.

N.B. Is not returned as licensed by Mr. Chisholme in 1834 or 1835.

John Houlston, shopkeeper, Three Rivers.

Has been for four years a shopkeeper.

DEFENCE.

Ignace Caron, shopkeeper Riviere du Loup.

OBSERVATIONS.—I have had, as yet, no opportunity of seeing this individual, nor the means of sending for him; but I find his name in the list of shopkeepers whose licenses have been delivered to them, as follows; so that the production of a receipt can form no charge in such a case:—

"1833. August 18. No. 15. Ignace Caron, River du Loup."

"1834. May 17. No. 16. do. do."

"1835. May 19. No. 12. do. do."

Note.

"1833. May 22. No. 29. Amable Gagnon, Maskinonge."

DAVID CHISHOLME.

Three Rivers, Oct. 18, 1836.

Philip Panneton, shopkeeper, Three Rivers.

I hereby certify, that I have not yet paid my license for 1835, and never called upon Mr. Chisholme for the same.

PHILLIPE PANNETON.

Three Rivers, 7th Oct. 1836.

Jean Bte. Martel, tavernkeeper, Becan-cour.

I do hereby certify, that for the years 1834 and 1835, I did not pay for, nor take up my licenses from Mr. Chisholme.

his
JEAN BTE. MARTEL,
mark.

Witness,
HONORE GODIN.

OBSERVATIONS.—For the years 1832 and 1833, Mr. Martel, though returned, never qualified as a tavernkeeper. I never owed him money.

DAVID CHISHOLME.

Oct. 11, 1836.

John Houlston, shopkeeper, Three Rivers.

I do hereby certify, that I have never

CHARGES.

When he commenced business, was told by Mr. Chisholme to begin selling whenever he pleased, and he did so, and continued to sell for the following three years, under the impression that his licenses were charged against him, by Mr. Chisholme, with whom he had, and still has, an unsettled account. He has now a license from Mr. Kimbert for the first time.

N.B. Is not returned as licensed by Mr. Chisholme for 1834 or 1835.

Michel Gorond, shopkeeper, Gentilly.

Has been a shopkeeper for seven years, and in 1833 and 1834 did not receive his licenses, although he paid his money each year, and will produce receipts for it. In 1833 he was prosecuted for selling without license, and fined, although he had a receipt for about half the amount of his license, and an assurance from Mr. Chisholme that he could sell without danger; and will swear to the facts, if required, and will furnish the receipts, if he can find them. He now produces and hands in one receipt, marked K. from A. Hamel, in part payment of his license for 1835.

N.B. Is not returned as licensed by Mr. Chisholme in 1834.

John O'Connor, tavernkeeper, Three Rivers.

Has been a tavernkeeper for three years—in 1834 and 1835, he paid £6 11s. at different times, on account of his license, and never got either license or receipt. Mr. Chisholme told him to sell, and he was satisfied. He still owes Mr. Chisholme the balance of the second year's license; and can swear to the above facts.

N.B. He is not returned as licensed by Mr. Chisholme for 1834 or 1835.

21st Sept.
*François Bellerive, tavern-keeper,
Champlain.*

Has been tavernkeeper for seven or eight years, and has had only one license from Mr. Chisholme, which was for the first year—for all the others he paid regularly, and had so much confidence in Mr. Chisholme, that he did not ask even for a receipt, particularly as he was not threatened with prosecution at any time. He has a license this year from

DEFENCE.

called upon Mr. Chisholme for a shop license, nor paid him for one.

JOHN HOULISTON.

Three Rivers, 16th Oct. 1836.

Michel Gorond, shopkeeper, Gentilly.

OBSERVATIONS.—In 1833, he was a shopkeeper, and his license was delivered to him, his name being No. 48 on the list of shopkeepers. In 1834 he did not take out nor pay for any license. In 1835, he was qualified as a *tavernkeeper*, and his license was delivered to him, his name being No. 3, on my list of tavern-keepers.

DAVID CHISHOLME.

Three Rivers, 6th Oct. 1835.

NOTE.—Gorond was returned as a tavern-keeper for 1836; but he has not yet (6th October, 1836,) qualified himself, or taken out a license, which shews the irregularity of his conduct.

John O'Connor tavernkeeper, Three Rivers.

I do hereby certify, that not having paid for my licenses, for 1834 and 1835, except as mentioned by me before Messrs. Daly and Vézina, I did not call for my licenses.

JOHN O'CONNOR.

Three Rivers, 4th Oct. 1836.

*François Bellerive, tavernkeeper,
Champlain.*

I do hereby certify, that for the years 1832, 1833, 1834, and 1835, I did not pay Mr. Chisholme for my licenses, nor take up the same.

his
FRANCOIS BELLERIVE.
mark.

Witness,
HONORE GODIN.

CHARGES.

Mr Kimbert, and is ready to swear to the above facts, and, in some instances, to prove, through others, that he has paid Mr. Chisholme for his licenses.

N.B. He is not returned as licensed by Mr. Chisholme for 1834 or 1835.

Henry F. Hughes, shopkeeper, Three Rivers.

Having a running account with Mr. Chisholme, has not received his license for the last two years—has, however, always given Mr. Chisholme credit for the amount of his license in account, copies of which have been received and approved of by Mr. Chisholme—produced his books and a letter from Mr. Chisholme, confirming this statement, and is ready to attest the facts, if required—does not remember to have been without his license until the last three years.

N.B. Mr. Hughes' name is not returned as licensed in 1834 or 1835.

Antoine Bureau, shopkeeper, Three Rivers.

Paid for a license in 1835, to Mr. Chisholme's Bailiff, A. Hamel. Handed in Hamel's receipt, marked A., and will attest his statement on oath, if required.

N.B. Is not returned in Mr. Chisholme's list for 1834 or 1835.

Lubin Rousseau, shopkeeper, St. Pierre.

Was three years a shopkeeper, viz.: 1829, 1830, and 1831, and only got license for 1830, though he always paid and got receipts from Mr. Chisholme himself. In 1829, after having had his receipt for some months in his hands, he again asked for his license, and was informed that he (Mr. Chisholme) had none, and that he might continue to sell until May following as he was. He will attest these facts on oath, if required, and will enclose the receipts either to Mr. Vezina or Mr. Daly, at Quebec, if they can find them.

D. DALY.
P. VEZINA.

Three Rivers, 22d Sept. 1836.

DEFENCE.

NOTE.—Vide Mr. James Bell's letter, appended to Mr. Dubord's certificate of this date.

DAVID CHISHOLME.

Oct. 17, 1836.

Henry F. Hughes, shopkeeper, Three Rivers.

"THREE RIVERS, Oct. 4, 1836.

"For the last two years, I did not ask for the license.

H. F. HUGHES."

OBSERVATIONS.—I have it in writing from Mr. Hughes, on the 4th of October instant, that for the years 1834 and 1835, he did not call for his license. The account he refers to, was opened in 1835, after his licenses became due; and if, in July, 1836, the date of the letter alluded to, I expressed an approbation of his statement, it was without advertising to the credit given by him for one license, and when no mistake of the kind could be rectified by me. His license ought to have been taken up on the 20th of May, 1835; but his account was not furnished till July, 1836.

DAVID CHISHOLME.

Oct. 6, 1836.

Antoine Bureau, shopkeeper, Three Rivers.

I hereby certify, that although I paid my license to Mr. Hamel, I did not call for the same on Mr. Chisholme.

ANTOINE BUREAU.

Three Rivers, Oct. 7, 1836.

Lubin Rousseau, shopkeeper, St. Pierre.

OBSERVATIONS.—This man admits that he got his license in 1830. It was not till 1831 that I was instructed to keep a list of the names of those furnished with licenses, and my predecessor never kept a list. In 1831, his name is No. 22, on the list of licenses paid for and delivered. In 1833, he became and was returned as a *tavernkeeper*; and his name regularly appears on the list of licensed tavern-keepers, from that period to 1835, inclusive—a fact not denied on the opposite side, but rather confirmed. The following is a just and true extract from the list in question:—

CHARGES.

DEFENCE.

- " 1831. April 14. No. 23. Lubin
Rousseau, shopkeeper."
" 1832. May 15. No. 9. Ditto, ta-
vernkeeper."
" 1833. May 11. No. 2. Ditto,
Ditto."
" 1834. May 11. No. 9. Ditto,
Ditto."
" 1835. May 16. No. 8. Ditto,
Ditto."

DAVID CHISHOLME.

Oct. 6, 1836.

Such is the extraordinary nature and character of the evidence brought against me, in support of undefined charges, with which I was never made officially acquainted ; and such is the refutation, word for word, of that evidence, which, under the great hardships and disadvantages before alluded to, I furnished to Government, in vindication of my character, not as a Government Officer, but as a private Agent to the Secretary of the Province, long after I had ceased to be employed as such Agent ; and that without any comment whatever, as will appear from the following letter :—

THREE RIVERS, 18th October, 1836.

SIR,—I have at last been able to complete, and have now the honour of transmitting to you, without comment, for the favourable consideration of His Excellency the Governor in-Chief, certain certificates and observations, with respect to the complaint made against me, as to my conduct, while the Agent of the Provincial Secretary, for the issue of licenses in this District.

I shall only beg leave to add, that should it appear to His Excellency I may have committed some of those minute and trivial errors, which so frequently occur in the transaction of public business, yet I do most conscientiously acquit myself of any design either to defraud the revenue or perpetrate any legal or moral violation of my duty. I have the honour to be, Sir, your most obedient and very humble servant,

DAVID CHISHOLME.

S. Walcott, Esq. Civil Secretary.

To this communication I soon received a reply, containing the most unjustifiable and unwarrantable comments upon the evidence adduced by me in my own vindication, and without any reference to that brought against me ; and taking it for granted, that, though proceeding from the same individuals, the evidence on the one side was true, and on the other, false. I was also informed, that His Excellency the Governor-in-Chief had removed me from all the offices which I held under Government !

Thus illegally and most unjustly oppressed and injured in my reputation and fortune, I had no alternative but to prosecute every means in my power, in order to obtain redress of what I consider to have been one of the most cruel and arbitrary acts that was ever committed by a British Governor, in any of our Colonial dominions. In the hope of being able to proceed to England, there to appeal from the decision by which I was removed from office, without trial or conviction of any offence whatever, I applied to the Civil Secretary and to Messrs. Daly and Vezina for various official documents, which I deemed to be necessary for the success of my undertaking. But in vain, as may be seen from the correspondence which took place on the occasion. I shall not burden the present case with the whole of that correspondence, though if I did so, it would go far to justify the assertion, that a determination seemed to exist somewhere or another to refuse to me the same measure of impartiality and justice, which had been meted out to others, placed in similar circumstances. I may, however, quote the following communication from the Civil Secretary, as it was the means of eliciting an answer from me, which contains fuller details and more ample commentaries upon the whole case than I had before deemed it necessary to enter upon :—

{ CASTLE OF ST. LEWIS,
Quebec, 29th November, 1836.

SIR,—I am directed to acknowledge the receipt of your letter, of the 26th instant, and without pausing to observe on the unfounded and highly improper language in which parts of it are couched, to acquaint you, that the Governor-in-Chief, in the early part of this month, transmitted to the Colonial Secretary, for His Majesty's information, all the documents connected with your case, including those alluded to in your letter, and that he does not intend to make any further communication on the subject, unless the reply of the Secretary of State should

require it. With respect to your request for a copy of the official letter addressed to His Excellency by the Secretary of the Province, regarding your conduct as his Agent, I have been directed to inform you, that it is not the practice to furnish copies of official documents to private individuals, as that would withdraw from the public service too much of the time of those employed in the Government offices; but that there will be no objection to allow any person whom you may depute to transcribe the letter of which you desire a copy. I have the honour to be, Sir, your most obedient humble servant,

S. WALCOTT, *Civil Secretary.*

David Chisholme, Esquire.

To this singular letter, I returned the following answer—deeming it high time to enter into a full discussion of the treatment I had experienced; and convinced that, in all future consideration of such treatment, every justice would be done to impressions fresh upon my mind, and which I had not hesitated to communicate directly to the quarter whence the injury proceeded:—

THREE RIVERS, 14th December, 1836.

Sir,—I have to acknowledge the receipt of your letter of the 29th of November last. It is with considerable reluctance that I do so. But both its style and contents, appear to me to be so much at variance with what I conceive to be due to me in my present situation, not less as a private individual than as a discarded public servant, that I can no longer abstain from replying to your last communication at some length. It is but a duty I owe to myself. Here, too, it may be, that I shall speak of truths that are unwelcome. I cannot help it. I am now reduced to a condition in which I must both learn and communicate much that may prove to be unpleasant. But it is equally the duty of your station, and the dictates of humanity, that you should listen to me with patience and forbearance. *Justitiam moniti.*

In acknowledging the receipt of my letter, of the 26th ultimo, you begin by stating, that you cannot pause to make any observations "on the unfounded and highly improper language in which parts of it are couched." Unfounded! Be pleased, Sir, to look back upon this word, and reflect upon its meaning but for an instant. I shall not, however, indulge in the expression of my feelings. But "a wounded spirit who can bear?" Unfounded! What, I should be glad to know, is there in that poor letter, from beginning to end, that is really "unfounded?" Could it have been "unfounded" to state, as I there did, that it was my determination to appeal from the illegal, unjust, and arbitrary proceedings by which I had been removed from office, in the just vindication of my fortune and character, against an act of high-handed tyranny, unprecedented in Colonial history? Let us see: to me, at least, it is of importance that the point should be elucidated.

In conformity with the practice and principles of justice and equity, was it, or could it be a legal exercise of the functions of His Excellency the Governor-in-Chief, to foster and entertain against me, as a Public Officer of Government, a complaint for misconduct alleged to have been committed by me, in the humble capacity of mere private Agent to the Secretary of the Province, to whom alone, and to the laws of the land, I could at all be considered as responsible; and that at a period of time long subsequent to my resignation of the paltry employment, and a complete and honourable discharge from my constituent? The open and general right of complaining to His Excellency, as the head of the Civil and Executive Government of the Province, with respect to any malversation that may be committed by a subordinate Officer of such Government, in the direct and immediate duties of such office, I most readily and fairly admit. Without some such control, and redress of official conduct, every Government would become, what the Government of this Province has long been—a nuisance in itself—a stigma and disgrace to civilization—a bankrupt in means—and, like the shaven patriarch, the blind and feeble object of sport to a despicable and revolutionary faction. But I beg leave to deny, in the most positive and peremptory terms, and shall do so with my latest breath, that either His Excellency the Governor-in-Chief, or any other constituted authority, short of the judicial tribunals of the country, has any right or power to take cognizance, or to authorize others to take cognizance, of any misdeeds that may be committed in a private station, however enormous in guilt or well-founded in fact. In pursuing a line of conduct different from this humble but steadfast opinion, any Civil Government, constituted as ours still is, which, to the exclusion and entire suppression of the ordinary Courts of Law, should arrogate to itself rights and privileges so diametrically opposed to the first principles of legal and constitutional justice, would not only assume to itself an extreme authority, adverse to every precedent in good and free government, but subversive of the just equipoise, which ought ever to exist between the Judicial and Civil departments, and by which alone the pillars and bulwarks of the State can be maintained. Far less, by the same authority, can the established law of the land be either altered or modified; and, least of all, in a case where a public servant may be the private offender. In the present instance, the offence—if any could have ever existed—was neither committed in public, against the public weal, nor in any public or official capacity whatever—far less in the immediate discharge of the duties of any one of the offices from which I have been lately so unceremoniously removed. The same legal course of proceeding must be adopted, and the same rule of justice applied. The good and faithful public servant is not amenable, in his public capacity for the actions of the private delinquent; nor can the force of condemnation reach him in the former quality, until he has been declared infamous in the latter: which can only be done in due course of law, and by a fair and impar-

trial before the ordinary tribunals of justice: but not—God forbid!—before such a Court as was lately established in this town and neighbourhood, by the authority and under the immediate auspices of His Excellency the Governor-in-Chief:—a tribunal, if so it may be called, that can reflect but little credit on the source whence it may have emanated, and which would not be tolerated in any other part of the British Empire, except in a country like this, where, by the unconstitutional inroads of a bold but ignorant faction, warmed and nurtured into giant strength, by an over-indulgent Parent Country, the very fountains of justice have been attempted to be polluted—where the Judges of the land are mendicants upon the bounty of their private friends—and where the whole system of law, jurisprudence, and polity, is a bye-word and a proverb among every surrounding people. I repeat, in one word, that no mere ministrative authority can legally take cognizance of any private act of misconduct on the part of its officers, until it has been judicially proved and brought home to them. Were the case otherwise, His Britannic Majesty's Representative in this Province might assume to himself, with perfect impunity, those high and uncontrollable functions, which were anciently exercised by the deputies of His Most Christian Majesty: at any time have recourse to those unconstitutional and inquisitorial proceedings of the House of Assembly, so long complained of; and, every day he rises, immolate, at the shrine of private resentment, popular clamour, or factious obloquy, some unfortunate servant of his Government, whom, by his oath and office, he is equally bound to defend and protect, so long as the officer's conduct, unimpeached and unconvicted by legal and judicial authority, will justify him in doing so.

But it has been hinted to me, in some one of your former communications, which I have no time at present to refer to, that it is in the power of the Governor-in-Chief of this Province, to remove and dismiss from office, any of the public servants of Government, without assigning cause for so doing. I presume this hint was thrown out in full anticipation of the course which has been adopted on the present occasion, although it was deemed advisable, in the meantime, to screen and justify the transaction, by having recourse to the dogberry tribunal resorted to. I did not, as you know, gainsay the proposition, nor join issue as to its constitutional accuracy; nor do I presume to do so on the present occasion, though I am far from being of your opinion, as I shall, at some future time, have an opportunity of convincing you. But it is one thing to commit an act of overbearing authority, and another to defend and justify it—a point which, be assured, we shall come to in the sequel of my humble efforts to do justice to myself. Better, however, for His Excellency thus to take the responsibility of my removal from office upon himself than, by the extraordinary course which has been pursued, intrude his individual authority upon the law of the land and the due course of judicial inquiry. Better, and far more manly, however much in error, at once to

assume the autocracy of the Civil Governor, than taint, and obtrude upon the sacred fanes of justice a bastard court of inquiry, without rule, authority, or precedent. Better on his own risk and responsibility, and in such a case of extremity, fearlessly to rush alone upon the surf and breakers of an obscure point of administrative authority, than first to involve others in perils, from which he will never be able to extricate either the one or the other.

Was it, then, or could it possibly be, *legal*, not only to entertain the complaint in question, but to issue an unheard of commission to two other officers of Government, with power to constitute themselves into a court of inquiry and justice, with respect to my private conduct, as the private agent of one of those inquisitorial judges; and in such capacity, like a Royal Court of Assize and General Gaol Delivery, perambulate the Province for evidence against me, at various times and places that I knew not of, when I was not and could not be present, and not permitted, either by myself or counsel, to cross-examine the witnesses, or rebut a chaos of unmeaning charges, never before attempted to be made the foundation of any penal proceeding? What may have been the nature and extent of the powers conferred upon this exquisite model of a court of inquiry, I have not, as yet, had the means of ascertaining—my addresses for information on that head having been rejected on all hands. But if they were co-ordinate and equally extensive with the jurisdiction assumed by the Commissioners, all which can at present be said upon the subject, is, that they are in exact conformity, and in the most perfect accordance with the unprecedented character of the whole proceedings, from beginning to end. Those Commissioners, if so they must be denominated, not satisfied with the mere original right of solemnly and openly constituting themselves into a tribunal of justice, at a public inn of this district and county-town—with loudly proclaiming their authority, and general control over my character and conduct, and over every one who could give evidence against them, but arrogating to themselves all the pomp and circumstance of a court of original jurisdiction, summoned before them persons, papers, and records, and adjourned their proceedings from day to day, and from place to place. They gave it out to be understood, among all persons having, or bound to hold, shop and tavern licenses, for the last five years, that if they did not immediately appear and give evidence—and by so doing exonerate themselves from the blame and negligence which really attached to many of them, for the irregularity with which their licenses had been taken up—they should be prosecuted for the recovery of the prescribed penalties. In this way, the new temple of law, so recently metamorphosed from the bustle and uproar of a tavern into the solemn demeanour of a court of justice, was filled, from morning to night, and from day to day, for the space of upwards of a week, with persons of every grade of character, not only residing in town, but from all parts of this extensive district, fully instructed and prepared to answer in the affirma-

tive, all questions that might have a tendency, not to acquit, but, on the contrary, to inculcate the object of scrutiny: that object, as already observed, not having been present in person or by counsel; and who had neither the satisfaction nor the mortification of beholding this great modern *progress*, from first to last, nor of being a party to any one of its most extraordinary transactions. Besides all this, the regular Bailiffs of the Court of King's Bench of the District, were withdrawn from their ordinary official employment, and commissioned to scour every parish, town and hamlet in the District, for witnesses against me; and one of the Commissioners (Mr. Vezina) went so far beyond the bounds of all decency and reasonable zeal, as, in this town, on a market day, and in the market place, publicly to intimate his anxiety to procure evidence against me! Not content with this, the Commissioners, in person, went from house to house, and from place to place, both in town and country, with the same view; and there disclosed to the wondering and affrighted inhabitants the full power and authority of their unparalleled jurisdiction.

This, Sir, is no fiction, nor an overdrawn picture of the conduct of your Commissioners, on the occasion in question; but, on the contrary, and in due time and place, the whole will be proven to the entire satisfaction of the constituted authorities of the country. I would, therefore, beg permission to ask you, whether, in this Province of the British Empire—boasting, as it still does, of British justice and freedom—of protection of person, reputation and property—where right is still administered—and where the courts of law are yet open, this new system of inquisitorial and retributive justice, set up by His Excellency the Governor-in-Chief, with respect to the private, and not the public, conduct of an unprotected individual, can by any possibility, or reasonable construction of law or equity, be otherwise pronounced than as highly “ILLEGAL?” If so, then, why should any part of my former letter to you be so heartlessly and provokingly pronounced to be “UNFOUNDED?”

We come next to the “IMPROPER LANGUAGE,” which you speak of. It were, certainly, a good thing, on many occasions, to be schooled into a strain of decency and propriety; but, in the present instance, it were well if example would take precedence of precept:—

“Respicere exemplar vitæ morumque jubebo,
Doctum imitatore, et vivas hinc ducere voces.”

Permit me to ask you, how far the expression quoted is really applicable to my poor letter? I said that my removal from office was “UNJUST.” I say so still. I feel that it was: I know that it was; and, if God be pleased to spare my life, I soon expect to be able to make others also to know and feel the same incontrovertible fact. Let me also ask, if, after what we have seen and heard of the time, place, and fashion of the inquiry, in consequence of which that removal took

place, it was or could be *just* thus to condemn and dismiss me from the service of my Sovereign? In that service I have conducted myself for upwards of ten years perfectly faultless. It will be proved by impartial witnesses, that the duties of my several offices were discharged with fidelity and discretion. Was it *just*, then, to remove me from those offices, because some malignant private enemies had confederated together, for the purpose of depriving me of situations, in the emoluments of which they themselves and their relations and partisans, had long wished to participate? These enemies knew me well; and so do I them. They knew me well as the stern, unflinching advocate of all that is legal and constitutional—of all that is conservative of sound principles of government—of undeviating attachment to my King and country—of long and laborious efforts to promote a better state of public affairs in this distracted Province—of hatred to seditious and revolutionary factions—of contempt for democratical principles—and for the employment of my best efforts to bring about a better order of things in the country. My knowledge of my enemies, forms the antipodes of all this; and it is, therefore, no wonder that they have long pointed me out as an object of merciless punishment. So far they have succeeded. But, because false, “unfounded,” and unproven charges had been brought against me, for misconduct alleged to have been committed in a private and non-official situation, long after my resignation and honourable discharge from it, was it *just* to push me forth from two public offices that had no earthly relation to the miserable one in question? Even had the accusation been founded in fact—which it was not, and I have proved that it was not—was it *just*, without any other trial than the mock one I have slightly depicted, to thrust me totally out from public employment? Was it *just* thus to pronounce me infamous, and expose me to the shame and ruin of a legally convicted public offender, when, in fact and in truth, I never was so; and dare my accusers to the proof of my guilt before a more competent tribunal.

But, moreover, I was tried, as already stated, without being present: the evidence taken against me, and afterwards acted upon, was *ex parte*; it was not upon oath or honour; and it can be shewn and proven at any time, that it was altogether extracted under the fear of a penal prosecution. It is true, that I was furnished with an *ex post facto* copy of it, and *permitted* to make my observations upon it in all the haste that two official communications from yourself could enjoin upon me. It is also true, that in a poor state of health—at a most inclement season of the year—in bad and almost impassable roads—at much personal hazard and expense—and amidst the gaze and pity of vulgar prejudice, I was compelled to travel to the farthest boundaries of the District, in search of evidence to counteract that which had been brought against me. And I did counteract and rebut it. The evidence which I collected, proceeded from the same source with that from which my dismissal was deduced; and the charges themselves, as well as the evidence

brought up in support of them, were totally and entirely refuted, word for word, and fact for fact. I repeat it, that even under the difficulties and disadvantages I have spoken of, the whole of the evidence upon which the Governor-in-Chief had been pleased to proceed against me so illegally, was, and now stands refuted, word for word, and fact for fact. Who, then, will say but that the means by which I have been displaced, have been not only "UNJUST," but highly arbitrary! If so, what is there that is "*improper*" in the letter you complain of, and admonish in such harsh and unfeeling terms?

Is it when oppression like this, stalks with impunity through the land—when the iron hand of uncontrollable power is stretched forth against an innocent and unoffending individual—when he lies prostrate at the feet of unjust and merciless enemies—when the heel of the oppressor is upon his neck—when the brand of infamy is affixed to the whole tenor of his private and public actions—when he is denied the right of being heard in self-defence, the first and most valuable right of a Briton—when the portals of legitimate justice are shut against him—when the finger of scorn is pointed at him—when he is chafed by the pitying inquiries of friends and the malicious insinuations of enemies—is that a time, I would ask, for weighing words as in a balance, and measuring out sentences as if by rule? I put it, no less to your candour than to your feelings, to say, whether this be a time to deck oneself in the holy-day garb of courtly expression, and in all the gaudy trickery of the "language" of parasites and flatterers? There is, Sir, a language of the soul, which some cannot comprehend: there is a language of the heart which some cannot feel; and there is a language of the innocent and oppressed which the obdurate tyrant can neitherathom nor understand. If, therefore, it should appear to you, as it seems to have done, that my poor letter was conceived in either of those languages, it is very easy to imagine why you have stigmatized it as "*IMPROPER*."

I now come to the other matter contained in your last letter. You tell me that the Governor-in-Chief, in the early part of November, transmitted to the Colonial Secretary, for His Majesty's information, all the documents connected with my case; and that he does not intend to make any further communication on the subject, unless the Secretary of State should require it. It may be, that, in doing so, his Lordship did well for his own sake; but I must take leave to question the strict justice of the measure, in as far as I am concerned. Did his Lordship attempt to circumvent me by this unprecedented hurry in transmitting to the Colonial Secretary his own private and justificatory account of my trial and condemnation? I hope not. But did his Lordship really think that the matter was to rest here; and that, with the sealing of his despatch, my fate and doom were also sealed, never more to be thought or heard of on this side of sepulchral oblivion? Could his Lordship, for a moment, suppose, that he was the sole arbiter of my character and

fortune, considering the illegal manner in which they had been assailed—that his award was final—and that no re-integration of my singular and cruel case could ever again be made or effected? If so, his Lordship must, of course, have supposed himself to be, what the highest functionary in the Empire is not, and cannot be—above law and beyond responsibility. The worst sort of tribunals allow of an appeal, and it is only the decrees of tyrants that are irrevocable. Whatever his Lordship may think on this subject, it now clearly appears to me, that it was only necessary to complain of me, in order to insure my destruction; and that his Lordship seems to have been no less willing to adjudge my condemnation, on vague and contradicted evidence, than anxious—if not to prejudice me in the estimation of the King and Colonial Secretary—at least, to justify beforehand his own share in the unexampled transaction. What other conclusions can possibly be drawn from the extraordinary resolution said by you to have been come to by his Lordship, in not making any further communication with respect to my case, unless the *Colonial Secretary* demanded it, as if the Colonial Secretary was the only one of His Majesty's servants and subjects who could bring him to an account, and compel him to be at least as just as he is powerful. But in this attempt to shut me out from all intercourse with Government, I leave his Lordship to reconcile so unfair a determination with that sacred duty, which, as the King's Representative, he owes to every individual of His Majesty's subjects—to protect and defend him as long as he may prove himself worthy of it.

You are next pleased to inform me, that the official complaint made against me, and of which I begged a copy in my last, was addressed to His Excellency by the Secretary of the Province! This seems to be another strange feature in this remarkable transaction. But what right had the Secretary of the Province at all to complain of me to His Excellency the Governor-in-Chief, who neither legally nor constitutionally could take cognizance of my conduct as a private individual? It is true that I was Mr. Daly's private agent; but my being so did not render me a jot more amenable to the head of the Executive Government. Did I not resign the miserable employment long before? Did I not give Mr. Daly my bond, and the most respectable and unquestionable security the Province could produce? What says the bond? It says throughout, that I was "bound unto Dominick Daly, of the city of Quebec, in the said Province, Esquire, and to his heirs, executors, administrators, and assigns, in the sum of five hundred pounds," and so forth. There is no mention made here either of his successor in office, or of the Executive Government, to whom I am complained of. "Is it so nominated in the bond?" Py no means. I was bound to him personally as a mere accountant, and to none but the law of the land for my moral integrity, with which the Executive Government could have nothing to say or do, until legally convicted of an offence: and, surely, the tribunal opened here, and the award pronounced at Quebec, will never

be admitted to be either just or legal. Was I not, then, personally and directly responsible to Mr. Daly? Were not the Courts of Law, civil and criminal, open to him, if he thought himself privately or publicly aggrieved? But it is no wonder, considering all things, that I was condemned as I have been. The illegal course of the proceedings had against me—the extraordinary manner in which the investigation was conducted throughout—and the iniquitous and contradictory tenour of the evidence brought against me, but afterwards so irrefragably refuted, can no longer be a subject of wonderment to any one. But “to every thing there is a season, and a time to every purpose under Heaven: a time to kill, and a time to heal: a time to break down, and a time to build up.”

You then proceed to inform me, “that it is not the practice to furnish copies of official documents to private individuals, as that would withdraw from the public service too much of the time of those employed in Government offices.” The refusal to comply with my humble request, and the reasons assigned for doing so, are equally novel and unsatisfactory to me. What! try and condemn an individual without allowing him the poor gratification of becoming acquainted with the charges brought against him! In what country do we live? One would suppose that, instead of being the rightful inheritors of British freedom and justice, we had of a sudden become the unhappy subjects of some Orient despotism, where the will of the chief is the law of the vassal. And is it come to this? God help those who become obnoxious to a power that is without control or responsibility; and may THE FRIEND of the friendless shield and protect the just rights of those who may have the misfortune to be dealt withal as I have been, during the whole of this extraordinary business, from beginning to end.

You refuse a copy of the “official” complaint made against me, and which was made the foundation of the procedure adopted to ruin me. You do well! Yet, strange to tell, you assign as a reason, that although private individuals are amenable to “official” complaints, their rights immediately afterwards cease, and they are no longer entitled either to an impartial trial or to the common courtesies of official persons, as that would withdraw too much of their attention from the public service. So to be just, equitable, and obliging, appear to you to form no part of the public service! Why? Because the unhappy individual who begs for justice and equity, is a “*private individual*.” This is strange reasoning, but still more extraordinary conduct, proceeding as it does from the powers appointed to administer the Civil Government of the Province, and who are enjoined to “consult with equal kindness the claims and wishes of every class of His Majesty’s Canadian subjects.”* But who made me a “private individual?” and by what means have I become so unfortunate as to have fallen from the high estate

* See Lord Gosford’s Instructions.

of a public one into the peaceful vale of privacy, neglect, and contempt? Who made me a homeless and a houseless wanderer? Let them look to it, whoever they be. And is a "private individual," however humble in station, not entitled to the same degree of justice with the public and "official" functionary, and to the humanity and protection of the King's Representative? It clearly appears to me not: and that, however inconvenient and expensive, he must have recourse to another and a higher source for justice and redress. I have the honour to be, Sir, your most obedient servant.

DAVID CHISHOLME.

S. Walcott, Esq. Civil Secretary, etc. etc. etc.

It is only necessary to add to the history of this strange affair, that, notwithstanding a further correspondence on the subject, I was unable to procure an authentic or official copy of the documents which I found were so necessary to a final redress of my unparalleled injuries, though I was informed, that I might take copies of them; but, as may be readily conceived, simple, unauthenticated copies, would not answer the purpose which I had in view. It was, at that time, my intention, as already stated, to have gone to England in pursuit of that justice and redress which had eluded my best efforts here. But it was ordained otherwise. The fees and emoluments due to my offices, by the Executive Government, were in arrear for several years, owing to the confused state of public affairs in the Province; and which had the effect of throwing my private affairs into confusion also, as well as those, I believe, of almost every other officer of the local Government. This rendered it necessary, notwithstanding the ultimate payment of those arrears, to convert the whole of my little property into ready money, with the view of paying debts, which should never have been incurred, had my allowances from Government been regularly paid, and of enabling me to proceed to England, as I intended. But it was not sufficient. For though, in the midst of the rigours of a Canadian winter, I and mine were compelled to leave a warm roof and comfortable home, in order to dispose of all that these contained, yet the amount of the produce was not enough to enable me to accomplish my ends; and, like a battered wreck upon the sea shore, I was, for a time, left alone, helpless and hopeless. But a merciful Providence intervened. My poor pen has once more af-

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fording me the scanty and precarious means of existence. If I have not used it with ability, I trust it will never be said of me, that I have used it in any other cause than for the promotion of piety to God—loyalty to my Sovereign—obedience to the laws—peace and contentment among the people—and the extension of the boundaries of true freedom and good government.

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